WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-118

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

Section 71.91, Stats., relates only to delinquent taxes. Does the department's authority under this section permit the collection of data on all individual financial accounts, under the state matching option, before a connection to a delinquent debtor has been established?

2. Form, Style and Placement in Administrative Code

a. In the fiscal estimate to the proposed rule, is it accurate to note that the rule has no fiscal effect by reason of the fiscal effect being included in the fiscal estimate for 2009 Act 28? While referenced in s. 71.91 (8) (b), Stats., the presence of a quarterly $125 payment per financial institution and mandatory reporting by state financial institutions suggests that the fiscal effect of the proposed rule could be clarified. Additionally, the proposed rule states the payment is an amount "not to exceed $125." Although this phrase repeats the statutory directive, the department should specify the amount of the quarterly payment. If the department intends to make a quarterly payment of $125, it should specify that amount in s. Tax 1.16 (3) (c).

b. In s. Tax 1.16 (3) (a), the department states that it will prescribe the electronic means of submission for financial records. The department should clarify that prescription in the proposed rule. What is the department's intent regarding the inclusion of the phrase "to the extent possible" in connection with submission of records by electronic means?

c. In s. Tax 1.16 (3) (b) 1. b., the department should reference "subd. 1. a." rather than "subpar. a." [See s. 1.07 (2), Manual.]

d. The presence of the sentence "Sixty days notice is required for any changes to the conditions of the contract." in s. Tax 1.16 (3) (b) 1. c. suggests that the department may change its policy regarding disclosure or retention of information on non-delinquent account holders. Is this the department's intent? Is it the department's intent to apply this requirement only to the disclosure of information related to the "state matching option" under s. Tax 1.16 (3) (b) 1.? If the department intends for a 60-day notice to be required relating to any changes to the agreement, the sentence should be moved out of subd. par. c. For example, the department could place the sentence in s. Tax 1.16 (3) (a), which would apply the 60-day notice to agreements formed under either option of the financial record matching program.

Additionally, the department should clarify who may give the notice. Is it only the department, or may the financial institution change the conditions? Also, should "Sixty days" be "At least 60 days"?

As it relates to any notice, the department should refer to "agreement" rather than "contract" in order to be consistent with other references in the rule.

e. Based on the description of the "financial institution matching option," under what circumstances would a financial institution obtain information about non-delinquent account holders as suggested by s. Tax 1.16 (3) (b) 2. c.? Section 71.91 (8) (e), Stats., describes confidentiality obligations of financial institutions related to the financial record matching program. As an alternative, the department could refer to compliance with s. 71.91 (8) (e), Stats., in the department's agreement.